



WEB COPY



W.A. No.1488 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HON'BLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. No.1488 of 2024 and C.M.P. No.10563 of 2024

- 1 The Government of Tamil Nadu
represented by its Secretary
Cooperation, Food and Consumer
Protection Department
Secretariat
Chennai 600 009
- 2 The Registrar
O/o the Registrar of Cooperative Societies
V.N. Maligai
Kilpauk
Chennai 600 010
- 3 The Deputy Registrar of
Cooperative Societies (Housing)
Salem Region
Salem District 636 016

Appellants

v

L. Thiruppathi

Respondent



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Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 09.12.2022 passed in W.P. No.6765 of 2022.

For appellants Mr. Abishek Murthy
Government Advocate

For respondent Mr. N. Kolandaivelu

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

The respondent challenged the charge memo issued to him, in W.P. No.6765 of 2022, mainly on the ground that though the alleged incident took place in the year 2002 and the appellants came to know of the said incident in 2008, the appellants slept over the matter like Rip Van Winkle for 14 long years and issued charge memo only in the year 2022, that too, after he had retired from service in the year 2016.

2 The learned Judge, *vide* order dated 09.12.2022, finding that the judgment of the Supreme Court in **P.V. Mahadevan v**



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Managing Director, T.N.H.B.¹, wherein, the charge memo was quashed on the ground of inordinate delay in initiating disciplinary proceedings, would apply, on all fours, to the case of the respondent, quashed the charge memo and allowed the writ petition.

3 The aforesaid order of the learned Judge is challenged in this writ appeal.

4 Heard the learned Government Advocate appearing for the appellants and the learned counsel for the respondent, and also perused the materials available on record.

5 The short issue that arises for consideration in this writ appeal is whether the appellants are correct in initiating disciplinary proceedings against the respondent after a span of 14 years from the date of the delinquency.

¹ (2005) 6 SCC 636



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6 At the outset, pertinent it is to point out that, very recently, this Bench had an occasion to deal with a batch of cases in **Director of Horticulture and Plantation Crops and other v N.Subramanian**², involving the same issue as in the instant case. In the said cases, following the judgment of the Supreme Court in **P.V. Mahadevan**, *supra*, this Bench dismissed the writ appeals preferred by the State and directed the State to comply with the order of the learned Judge. The relevant portion of the said order is extracted for ready reference:

"13. It is no doubt true that after reaching the age of superannuation, the expectation of a Government servant is to get all the terminal benefits legitimately due to him. In case, a Government servant is not permitted to retire from service due to pendency of disciplinary proceedings against him, the department has an obligation to conduct and conclude the disciplinary proceedings at the earliest point of time, keeping in view the prejudice that may be occasioned to the delinquent. On the contrary, in the instant case, the Department simply issued the charge memo, a few days before the retirement of the respondent and did not allow him to retire from service. After passing such order, the Department has not shown any inclination to take the disciplinary proceedings initiated against the respondent to its logical conclusion. Undoubtedly, the inaction on the part of the Department would have kept the respondent in tenterhooks. They have totally lost sight of the prejudice that may be caused to the respondent by reason of such prolonged disciplinary proceedings, especially, after reaching the age of superannuation. In this context, the Honourable Supreme Court, in P.V. Mahadevan case mentioned supra, has issued guidelines to put an end to the irony of the

² W.A. Nos.3373, 3377 and 3379 of 2023 decided on 23.04.2024



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delinquent Government servants, who were subjected to a lengthy departmental enquiry and extending it even after their retirement. The learned Judge, taking note of the dictum laid down by the Honourable Supreme Court in the said case and upon being satisfied that there is unexplained delay on the part of the department in concluding the disciplinary proceedings against the respondent, has allowed the writ petitions filed by the respondent. We find no reason to take a view different from the one reached by the learned Judge. We, therefore, hold that the common order passed by the learned Judge in the writ petitions does not call for any interference."

(emphasis supplied)

7. In view of the above, we find no ground to interfere with the order impugned.

Ex consequenti, this writ appeal fails and is accordingly dismissed. No costs. Connected C.M.P. stands closed.

(R.M.D., A.C.J.) (M.S.Q., J.)
03.07.2024

Index : Yes/No
NC : Yes/No
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